

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

**IN RE: APPLICATION FOR CERTIFICATION AS ELIGIBLE RENEWABLE ENERGY RESOURCE
FILED BY FARMINGTON SOLAR, LLC - NEW GENERATION: DOCKET NO. 5166**

ORDER

On June 28, 2021, Farmington Solar, LLC¹ (Farmington or Company) filed with the Rhode Island Public Utilities Commission (Commission) an application seeking certification for its Farmington Solar Generation Unit, a 76.53 MW AC (115.92 MW DC) solar energy Generation Unit located in Farmington, Maine, as an eligible New Renewable Energy Resource in accordance with the PUC's Rules and Regulations Governing the Implementation of a Renewable Energy Standard (Rules) and R.I. Gen. Laws § 39-26-1.

On August 6, 2021, the Company provided supplemental and clarifying information to the Commission which included: a) confirmation of and documentation verifying the facility's NEPOOL GIS Asset Identification Number as MSS 69786, b) confirmation of the facility's completion of the interconnection process and evidence of a fully executed Generation Interconnection Agreement, and c) specification that the commercial operation date for this new facility will be no later than September 30, 2021, with test energy starting from September 1, 2021 to September 15, 2021, evidence of which will be provided to the Commission as soon as test power starts to flow.

In the cover letter to its application filed on June 28, however, Farmington also had requested that the Commission provide it with a Rhode Island Eligible Renewable Energy Resource Facility Certification Number (Certification Number) prior to the generation unit

¹ The authorized representative was identified as Anthony Pedroni, 700 Universe Blvd, Juno Beach, FL 33408. Phone: (561) 304-5622. Email: Anthony.Pedroni@nexteraenergy.com.

achieving commercial operation.² The Commission’s usual practice is that the applicants for Renewable Energy Resource certification provide written documentation verifying commercial operation prior to the Commission issuing a unique Certification Number.³ Therefore, Farmington’s letter was requesting that the Commission deviate from its established practice.

Farmington gave two reasons for the request. First, Farmington asserted that modification of the commercial operation requirement was appropriate as a matter of “public policy.” Farmington asserts that, simply because the Commission has previously approved the power purchase agreement (PPA) associated with the project, the Commission should disregard its usual requirement that an applicant demonstrate commercial operation before receiving a Certification Number.⁴ Second, Farmington asserted that the “Certification Number is a critical component for the project’s financial partners.” Farmington did not explain how this affected or impacted its “financial partners” or why any such impact warranted the Commission deviating from its usual practice.⁵

On August 27, 2021, the Commission requested that Farmington provide a response to the following request:

In Farmington’s June 25, 2021 cover letter to the PUC, Farmington states, “The Certification Number is a critical component for the project’s financial partners.” Please explain how the Certification Number is critical in more detail and/or explain the harm to the project and its partners if Farmington’s request is not granted.

² Farmington represented in its application that the anticipated commercial operation date for the facility was September 1, 2021. See Application and Cover Letter at <http://www.ripuc.ri.gov/eventsactions/docket/5166-FarmingtonSolar-RESForms> (6-28-21).pdf.

³ The Commission’s Standard Application Form requires the applicant to provide the date the generation unit first entered Commercial Operation or, if not yet in operation, the anticipated Commercial Operation Date. See <http://www.ripuc.ri.gov/utilityinfo/RI-RES%20Application Forms FINAL> 2021-4-19.pdf.

⁴ The Commission approved the power purchase agreement associated with the project in its April 9, 2018 Order 23102 issued in Docket 4764, The Narragansett The Narragansett Electric Co. d/b/a National Grid – Request for Approval of Eight Long-Term Renewable Energy Contracts.

⁵ See Application and Cover Letter.

On August 31, 2021, Farmington responded, stating that the Certification Number was necessary to declare commercial operation under the PPA and that declaring commercial operation was necessary to complete the financing of the project.⁶ Farmington also represented that the commercial operation date “may occur as early as September 15, 2021” rather than the previously represented September 1, 2021.

On August 31, 2021, the Commission convened an open meeting to review and rule on Farmington’s application and request. After examination, the Commission concluded that the Farmington’s request is a deviation from the Commission’s standard practice and denied the request that it receive a Certification Number prior to achieving commercial operation because the petitioner did not provide a compelling reason why such deviation should be granted. The reference to “policy” based on a pre-approved PPA had no connection to the request. Further, the Company gave an incomplete response to the Commission’s specific inquiry to explain in more detail how getting the Certification Number in advance of actual commercial operation was critical. or why there would be harm to the project and its partners if Farmington’s request was not granted. Commencing commercial operation and being able to declare a contractual “Commercial Operation Date”

⁶ Farmington’s complete response was:

Farmington Solar’s (Farmington) Power Purchase Agreement (PPA) with Narragansett Electric Company d/b/a National Grid (NEC) at Section 3.4(b)(iv) conditions the ability of Farmington to declare Commercial Operation on obtaining the Renewable Certification Number from the RIPUC. Without the Certification Number, Farmington cannot declare Commercial Operation under the PPA, which is scheduled to occur no later than September 30, 2021 and may occur as early as September 15, 2021. Declaring Commercial Operation under the PPA is critical to financing Farmington, because (1) only at that time is Narragansett required to buy the Products under Section 3.4(a), including RECs, generated by Farmington, which directly impacts the revenue stream a bank reviews when deciding the terms and conditions of financing, and, thus, without a declaration of Commercial Operation can result in a bank requiring terms and conditions that negatively impact the economics of Farmington; and, also, (2) achievement of Commercial Operation under the PPA is a condition precedent to the ability of Farmington to complete the financing of the project. Therefore, for these reasons, it is critical for the RIPUC to issue a Certification Number to Farmington for the company to obtain financing.

which triggers rights under a PPA are two separate events. One relates to whether the project is commercially operational, while the other is a contractually defined event. An applicant requesting a material deviation from the Commission's practice to assure that a unit is operational before providing the certification carries the burden of showing good cause. In this case, Farmington did not meet that standard. Therefore, the request for the deviation is denied.⁷

Nevertheless, the application is otherwise in compliance with Rules and the Commission conditionally grants the Company certification as an eligible renewable energy resource pursuant to R.I. Gen. Laws § 39-26-1.⁸ This approval is conditioned on the Company providing written documentation verifying the commercial operation date for the Farmington Solar LLC facility.

The PUC's determination in this docket is based on the information submitted by the Company and the PUC may reverse its ruling or revoke the Company's certification if any material information provided by the Company proves to be false or misleading.

Accordingly, it is hereby

(24139) ORDERED:

- 1) The Farmington Solar Generation Unit meets the requirements for eligibility as a New, Solar Renewable Energy Resource with its 76.53 MW AC (115.92 MW DC), Grid-Connected Generation Unit having a Commercial Operation Date not yet achieved and located within the NEPOOL control area in Farmington, Maine.

⁷ The Commission's documentation requirements are not onerous and the staff responds with due diligence to provide the certification number once the documentation is received.

⁸ Pursuant to Section 2.6 and other relevant Sections of the Rules, a thirty-day period for public comment was provided during which time no such comments were received.

- 2) That the Generation Unit's NEPOOL-GIS Identification Number is MSS69786.
- 3) As a Generation Unit which has not yet achieved Commercial Operation, eligibility is granted with a conditional requirement that the Company provide the PUC with written documentation verifying Commercial Operation.
- 4) Following receipt from the Company of acceptable written documentation supporting the Generation Unit's Commercial Operation Date, PUC staff is hereby authorized to assign a unique Rhode Island Public Utilities Commission Eligible Renewable Energy Resource Facility Certification Number for the Company's Generation Unit.
- 5) The facility's Renewable Energy Certificates (RECs) become Rhode Island-eligible effective on the first day when the Rhode Island certification number is issued. All RECs associated with the production of eligible energy that are minted on or after the Effective Date are eligible for the Renewable Energy Standard.
- 6) Although the PUC will rely upon the NEPOOL GIS for verification of production of energy from the Company's Generation Unit certified as eligible in this Order, the Company will provide information and access as necessary to the PUC, or persons acting on its behalf, to conduct audits or site visits to assist in verification of continued eligibility for and compliance with Rhode Island Renewable Energy Standard Certification at any time, at the PUC's discretion.
- 7) The Company shall notify the PUC promptly in the event of a change in the facility's eligibility status.

EFFECTIVE AT WARWICK, RHODE ISLAND ON AUGUST 31, 2021
PURSUANT TO AN OPEN MEETING DECISION. WRITTEN ORDER ISSUED
SEPTEMBER 3, 2021.

PUBLIC UTILITIES COMMISSION



Ronald T. Gerwatowski, Chairman



Abigail Anthony, Commissioner



John C. Revens, Jr., Commissioner

NOTICE OF RIGHT OF APPEAL: Pursuant to R.I. Gen. Laws § 39-5-1, any person aggrieved by a decision or order of the PUC may, within seven days from the date of the order, petition the Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.